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November 20, 2015

Newton Tedder
Office of Ecosystem Protection
U.S. Environmental Protection Agency – Region 1
5 Post Office Square – Suite 100
Mail Code OEP06-4
Boston, MA 02109-3912

Re: **New Hampshire MS4 Communities' Proposed Draft General Permits
for Stormwater Discharges from Small Municipal Separate Storm
Sewer Systems, NPDES Permit Nos. NHR041000, NHR042000 and
NHR043000**

Dear Mr. Tedder:

Sheehan Phinney Bass + Green, PA and Hall & Associates, on behalf of
the following New Hampshire MS4 Communities that comprise the New
Hampshire Stormwater Coalition:

Town of Amherst
Town of Bedford
Town of Danville
City of Dover
Town of Hampton
Town of Londonderry
City of Manchester
Town of Merrimack
City of Portsmouth
Town of Raymond
City of Rochester
Town of Rollinsford
Town of Salem
Town of Stratham

submit pursuant to the Notice of Reopening of the Public Comment Period on
Select Sections of the Draft Small Municipal Separate Storm Sewer System
(MS4) NPDES General Permit – New Hampshire, the following

observations/objections to comments submitted by the Conservation Law Foundation (CLF) submitted on November 1, 2015 (CLF Comment):

- Assertions that compliance schedules must be limited to the 5 year permit term (CLF comment at 2) is in error and contrary to the Environmental Appeals Board (E.A.B.) decision regarding the allowable NPDES program for the District of Columbia. *In re District of Columbia Water and Sewer Authority*, _____ E.A.D. _____, NPDES Appeal Nos. 05-02, 07-10, 07-11, and 07-12 (E.A.B. March 19, 2008).
- Virtually all of the New Hampshire water quality standards were adopted or amended by rule after July 1, 1977. Thus, EPA's presumption that schedules of compliance are allowed is well placed. EPA has reasonably satisfied the requirements necessary to allow schedules of compliance in the proposed permit, absent a demonstration that a standard at issue has remained unmodified, in any manner, since July 1, 1977. CLF, it should be noted, does not identify a single New Hampshire standard that would fit this description.
- A permit may not be unilaterally modified during its term, as recommended by CLF (Comment at 3). Modification provisions of 40 CFR 122.62, including the related public notice requirements, apply to any such actions.
- Any major substantive changes, such as mandating low impact development (LID) or green infrastructure as a mandatory component of the "MEP" standard as suggested by CLF (Comment at 4) would be a major revision requiring republication of this proposed permit and a complete regulatory analysis justifying statewide implementation of the requirement. No such analyses are presently contained in the record, nor are they provided by the CLF comments.

Very truly yours,



Robert R. Lucic